

Exhibit 4

*State of California ex. rel. Ven-A-Care of the Florida Keys, Inc. v.
Abbott Laboratories, Inc., et al.*

Exhibit to the Declaration of Nicholas N. Paul in Support of Plaintiffs' Motion for Summary
Judgment as to Defendant Mylan

(Dep. Ex. 10 – Filed Separately Under Seal)

NO. D-1-GV-07-001259

THE STATE OF TEXAS)	IN THE DISTRICT COURT
)	
ex rel.)	
VEN-A-CARE OF THE)	
FLORIDA KEYS, INC.,)	
)	
Plaintiffs,)	
)	
VS.)	TRAVIS COUNTY, TEXAS
)	
SANDOZ, INC. f/k/a GENEVA)	
PHARMACEUTICALS, INC.,)	
NOVARTIS PHARMACEUTICAL)	
CORP., NOVARTIS AG, EON)	
LABS, APOTHECON, INC.,)	
)	
MYLAN PHARMACEUTICALS, INC.,)	
MYLAN LABORATORIES, INC.,)	
UDL LABORATORIES, INC.)	
)	
TEVA PHARMACEUTICALS USA,)	
INC., f/k/a LEMMON)	
PHARMACEUTICALS, INC.,)	
COPLEY PHARMACEUTICALS,)	
INC., IVAX PHARMACEUTICALS,)	
INC., SICOR PHARMACEUTICALS,)	
INC., TEVA NOVOPHARM, INC.,)	
and TEVA PHARMACEUTICAL)	
INDUSTRIES, LTD.)	
Defendants.)	201ST JUDICIAL DISTRICT

ORAL AND VIDEOTAPED DEPOSITION OF

STEPHEN KRINKE

March 28th, 2008

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL)
INDUSTRY AVERAGE WHOLESALE) MDL No. 1456
PRICE LITIGATION) Master File No.
) 01-12257-PBS
)
THIS DOCUMENT RELATES TO:)
) Judge Patti B. Saris
State of California, ex rel.)
Ven-A-Care v. Abbott) Magistrate
Laboratories, et al.) Judge Marianne Bowler
Cause Nos. 03-cv-11226-PBS)

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN AND
FOR LEON COUNTY, FLORIDA

STATE OF FLORIDA

ex rel.

VEN-A-CARE OF THE FLORIDA
KEYS, INC. A Florida
Corporation, by and through
its principal officers and
directors, ZACHARY T. BENTLEY
and T. MARK JONES,
Plaintiffs,

VS.

CASE NO. 1998.CA.3032G

MYLAN LABORATORIES INC.;
MYLAN PHARMACEUTICALS INC.;
NOVOPHARM, LTD.; SCHEIN
PHARMACEUTICAL, INC.; TEVA
PHARMACEUTICAL INDUSTRIES,
LTD.; TEVA PHARMACEUTICAL
USA; and WATSON
PHARMACEUTICALS, INC.,
Defendants.

1 Q. (BY MR. PIERCE) I'll show you what's been
2 marked for identification purposes as Government
3 Exhibit -- excuse me, as Krinke Deposition Exhibit 10.

4 A. (Witness reviewing document).

5 Q. Mr. Krinke, my question on this one is going
6 to be simple, so don't spend too much time reading it.

7 A. Okay.

8 Q. This is yet another Medicaid reimbursement
9 comparison worksheet generated by Mylan for Drug
10 Number 7, is it not?

11 A. Yes.

12 Q. And on Page 3, for anybody who wants to
13 analyze it, there is a column for the state of Texas,
14 is there not?

15 A. Yes.

16 Q. And are you the person that can analyze that
17 column for us or not?

18 MR. ESCOBAR: Objection to the form.

19 A. I doubt it. I doubt it. You know, I have to
20 make assumptions and I -- again, I didn't create this,
21 so I don't think I could necessarily explain it.

22 Q. (BY MR. PIERCE) And as on the previous
23 document, your knowledge about reimbursement and the
24 concerns about Mylan for generating such a document,
25 you can't enlighten us on why Mylan as a company would

1 generate these documents, if I'm understanding you
2 correctly?

3 MR. ESCOBAR: Objection to the form and
4 you are mischaracterizing the documents and his
5 testimony.

6 A. I always forget the question after that.

7 Q. (BY MR. PIERCE) Okay. Basically this
8 document is titled the same as the previous document,
9 is it not, "Medicaid Reimbursement Comparison
10 Worksheet"?

11 A. I believe so, yes.

12 Q. It's a different document, though?

13 A. Yes.

14 Q. And can you enlighten us any more as to
15 Exhibit 10 as to why Mylan as a company would be
16 concerned about Medicaid reimbursement such that they
17 would generate a document like Exhibit 10?

18 MR. ESCOBAR: Objection to the form.

19 A. No, I can't enlighten you.

20 Q. (BY MR. PIERCE) Okay.

21 MR. BARNHILL: Do we need to check out
22 now, do you think?

23 MR. PIERCE: Yes, we do. We need to
24 take our lunch break and check out, so let's go off
25 the record. Thank you, Mr. Krinke.

1 responsible for all of North America.

2 Q. Is he -- does he have the title of president
3 or something else?

4 A. I believe it's President North America.

5 Q. Thank you, sir. And then there's a listing
6 for national account managers. Who were those
7 individuals?

8 A. The field sales representatives.

9 Q. All right. The people who call directly on
10 Mylan's customers?

11 A. Yes.

12 Q. All right. And what -- and this is from you?

13 A. Yes.

14 Q. The date of it, please, sir?

15 A. July 8, 1999.

16 Q. Okay. Just to make the record clear, this --
17 we are not talking about Drug 7 now. This is a
18 different document, right? Predates the new product
19 launch of nifedipine.

20 A. Okay.

21 Q. Okay. And what are you doing in this
22 document, Exhibit 11 -- excuse me, Exhibit 13?

23 A. Informing them of some changes to AWP that we
24 sent to First DataBank.

25 Q. AWP. Remind us again what that meant to you.

1 A. AWP in the industry stands for average
2 wholesale price.

3 Q. All right. And we haven't talked about it.
4 I know you're going to talk about it before the day is
5 over, but what is something like First DataBank?

6 A. First DataBank is a national database that
7 lists pricing information, among other things, for
8 pharmaceutical companies.

9 Q. Including generic products manufactured by
10 Mylan?

11 A. Yes.

12 Q. Part of your responsibilities over the years
13 has been to send that type of information to those
14 publishing houses like First DataBank?

15 A. On new product launches, yes.

16 Q. Okay. And what you have attached are
17 entitled "AWP price changes"; is that right?

18 A. That's correct.

19 Q. All right. And you have a column "Old AWP"
20 and "New AWP"; is that correct?

21 A. Yes.

22 Q. All right. And those columns reflect
23 information -- the new AWP that you provided to First
24 DataBank; is that right?

25 A. Yes.

1 Q. In each of those occasions it looks like the
2 new AWP was higher; is that right?

3 A. Without looking at each and every one of
4 them, many of them are higher.

5 Q. Okay. And did you establish those new AWP
6 prices?

7 MR. ESCOBAR: Objection to the form.

8 A. I believe I did.

9 Q. (BY MR. PIERCE) And how did you establish
10 them?

11 A. By comparing our AWPs to our competitors.

12 Q. And how do you do that?

13 A. In 1999 I believe the two sources of that
14 information were Redbook and PriceAlert.

15 Q. Okay. Are Redbook and PriceAlert the same
16 type of business that First DataBank is that you
17 reference in Exhibit 13?

18 MR. ESCOBAR: Objection to the form.

19 A. I believe PriceAlert was published by First
20 DataBank.

21 Q. (BY MR. PIERCE) Okay. Did you do anything
22 else to establish those new AWP prices that you were
23 reporting in Exhibit 13?

24 MR. ESCOBAR: Objection to the form.

25 A. Would you clarify what you mean by other

1 things?

2 Q. (BY MR. PIERCE) Well, I asked you if you
3 established those new AWP prices and I believe you
4 said you did.

5 A. I did.

6 Q. I asked you how you did it and you said you
7 went to those other published accounts to compare
8 prices with competitors, correct?

9 MR. ESCOBAR: Objection to the form.

10 A. Yes, I used those resources to compare
11 ourselves to our competitors.

12 Q. (BY MR. PIERCE) Did you do anything else to
13 establish those new prices other than check those
14 sources you've already identified for us?

15 A. Not that I know of.

16 Q. Okay. You didn't go to Pricing and Contracts
17 to see what was actually being charged from a
18 wholesaler to a pharmacy to establish those new AWP
19 prices --

20 MR. ESCOBAR: Objection to the --

21 Q. (BY MR. PIERCE) -- did you?

22 MR. ESCOBAR: Objection to the form and
23 no foundation.

24 A. I wouldn't know nor do I believe Pricing and
25 Contracts would know what a wholesaler charges a

1 pharmacy for the product.

2 Q. (BY MR. PIERCE) Okay. You didn't gather --
3 you didn't go to pricing and information for any of
4 the information you used to raise the AWP as reflected
5 in Exhibit 13, am I understanding you correctly?

6 MR. ESCOBAR: Objection to the form.

7 A. I can't think of anything they could have
8 provided me --

9 Q. (BY MR. PIERCE) All right.

10 A. -- to help me do this --

11 Q. Okay.

12 A. -- exercise.

13 Q. I just want to make sure I've exhausted your
14 knowledge about what you refer to and what you use to
15 establish those new AWP prices that you're reporting
16 in Exhibit 13 and you've told me what you've relied
17 upon.

18 A. Yes.

19 Q. Okay. Now, also on the cover page of
20 Exhibit 13 -- and this is going out to national
21 account managers who were going to service the
22 accounts. You say, "Please use these increases as a
23 selling tool with your accounts."

24 How is it that the salespeople can use a
25 raise in AWP prices that you establish as a selling